

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

REARDEN LLC, et al.,
Plaintiffs,

v.

THE WALT DISNEY COMPANY, et al.,
Defendants.

Case No. 17-cv-04006-JST (SK)

**ORDER DENYING PLAINTIFFS'
MOTION TO COMPEL**

Regarding Docket No. 399

This matter comes before the court concerning a joint discovery letter brief filed on June 12, 2023. (Dkt. No. 399.) Plaintiffs seek an order to compel DD3 to produce certain files created by DD3 using CG animation software called Maya during production of the movie *Beauty and the Beast*. Although this request comes after the close of fact discovery, Plaintiffs argue that this request for production falls under expert discovery, which does not close until June 28, 2023. For the reasons stated herein, Plaintiffs' request is DENIED.

Plaintiffs' discovery request falls squarely within the confines of fact discovery. Expert discovery means "discovery of the expert, not by the expert." *Finjan, LLC v. Qualys Inc.*, No. 18-cv-07229-YGR (TSH), 2020 WL 6581836, at *1 (N.D. Cal. Nov. 10, 2020). Plaintiffs' request calls for production of new fact materials for their expert witness to analyze, not for new statements or reports by their expert. Further, the request arises out of subpoenas that began as part of fact discovery and which Plaintiffs now wish to convert to expert discovery. (Dkt. No. 399 at 3.) Expert reliance on requested documents does not convert those documents from fact discovery to expert discovery. As such, Plaintiffs' request calls for additional fact discovery.

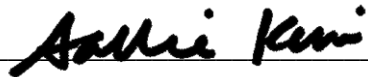
Under fact discovery, parties' joint discovery letter and Plaintiffs' request is untimely in multiple regards. Civil Local Rule 37-3 states that "no motions related to fact discovery may be filed more than 7 days after the fact discovery cut-off." Fact discovery closed on March 2, 2023,

1 and this joint discovery letter brief was submitted on June 12, 2023, more than three months later.
2 Further, the undersigned's Standing Order requires that all discovery disputes be submitted within
3 five days after the parties meet and confer on the matter. Based on the briefing, it appears that
4 parties held two meetings related to this discovery request – on February 17, 2023 and May 16,
5 2023. Looking to the latter meeting, which fell outside the fact discovery window, parties were
6 still untimely bringing this matter before the Court.

7 Thus, Plaintiffs' motion is DENIED.

8 **IT IS SO ORDERED.**

9 Dated: June 16, 2023

10 
11 SALLIE KIM
12 United States Magistrate Judge
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

United States District Court
Northern District of California